

OGC 8-0756a

18 April 1958

MEMORANDUM FOR: Office of Current Intelligence

ATTENTION:

SUBJECT: NSA Security Authorities

1. The action proposed by General Erskine appears to be appropriate in the present organization of the intelligence community. I do not see that it derogates in any way the Director's authority or responsibility and with the merger of USCIB and IAC would put NSA on a par with the other IAC members securitywise. of General Truscott's office concurs in this opinion and points out that he hopes at some time that there would be under the IAC a security subcommittee to coordinate action on all the problems involved in General Erskine's paper.

2. Not directly pertinent to your inquiry but merely for your information, I am very much against the Department of Defense's concept of giving responsibility to its General Counsel for investigation and direct action in security matters.

SIGNED

LAWRENCE R. HOUSTON
General Counsel

Att: Memo for USCIB fr
Ex Sec, USCIB,
dtd 14 Apr 58,
No. 13./7

cc: DD/C

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Subject-Security 3
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CONFIDENTIAL

SECRET

28 APR 1962

MEMORANDUM FOR: The General Counsel

SUBJECT : Defense Proposal to Grant NSA Exceptions to Certain Provisions in DOD Directives Concerning Safeguarding of Information

1. It would seem entirely appropriate to give DIRNSA these exceptions which would make his authority with respect to security information and related matters consistent with his operational control of all COMINT activities. This would be particularly appropriate if the proposed Defense reorganization plan goes through because you will note from the enclosed chart that NSA is shown as an independent agency directly under the Secretary of Defense.

2. I do not see any conflicts with the Director's statutory authority for the protection of intelligence sources and methods, particularly if DIRNSA becomes a member of the new single U. S. Intelligence Board.

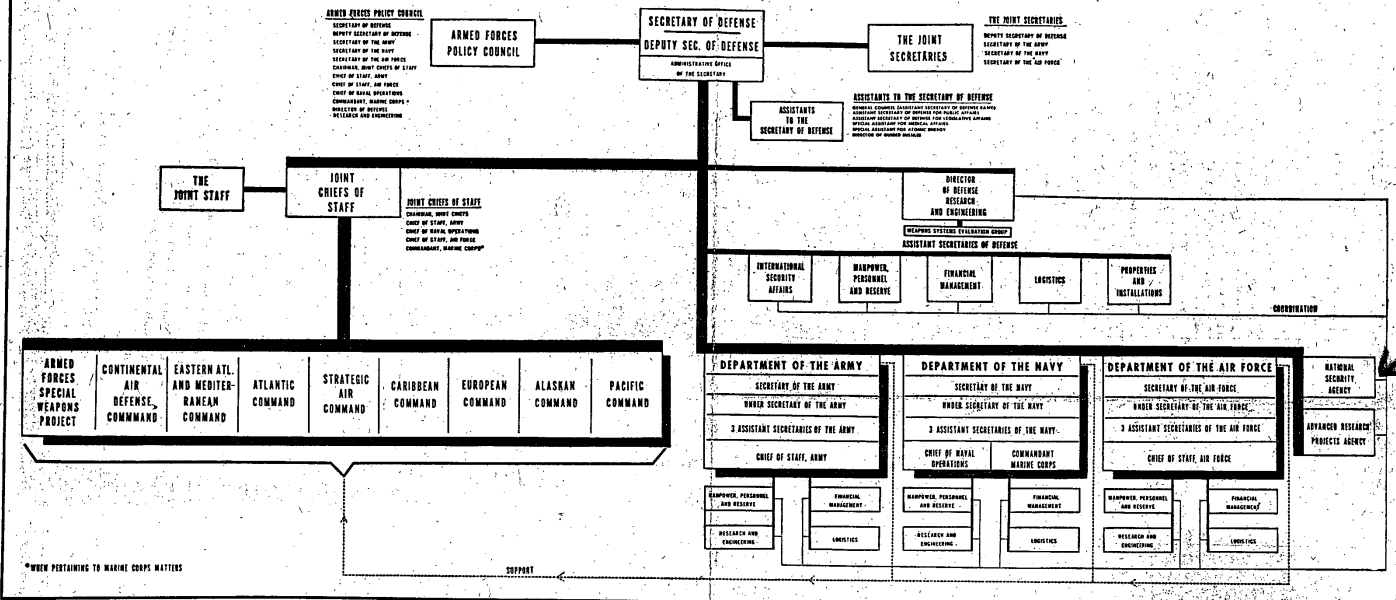
3. Although this DOD paper is not the springboard from which to introduce the following idea, I offer it for your future consideration. It appears to me that the Director's responsibility to "coordinate the foreign intelligence effort of the U. S." means that he will coordinate all matters which go to make up this intelligence effort, and certainly security matters are as important as any other. I hope and intend to promote as best I can the idea that the new merged Intelligence Board should include a security committee under it which would be a forum where all the security chiefs of the intelligence community can discuss their problems, receive the benefit of other peoples ideas, and effect coordination of the security part of the intelligence community's activities.



ASST. to the DD/C

Enclosure: a/s

Proposed Defense Reorganization Plan



SWEEPING CHANGES in traditional command lines and bold new authority for the Secretary of Defense over money and military personnel, are key figures of the President's program to overhaul the Defense Department.

The many-sided program, part of which has already been ordered into operation, is considered the most drastic since "unification" in 1947. The new plan contains no single service device, nor does it abolish the separate services. But it removes them from combat command and high strategy functions and confines their activities primarily to training, procurement and logistics. Action has already been taken to bring this about.

Among the new powers for the Defense Secretary is control over promotion and assignment of officers of three- and four-star rank. This has been ordered into operation. Until now, the individual service secretaries controlled such actions.

The President, in his 7000-word message announcing the program, also requested authority for the Defense Secretary to transfer officers between services. This was a renewed request; the Pentagon has been seeking it for years and Congress has refused.

Congressional hearings on the reorganization plan are slated to begin in mid-April when the President spells his request out in detail.

The reorganization aims to unify strategic planning, reduce arms costs, and curb inter-service rivalries.

As the accompanying chart shows, Command channels would go from the Defense Secretary to combat commanders. These "operational forces" would be unified commands, separate from the service departments with authority.

Service chiefs of staff have had dual roles, as chiefs of their own service and members of the

JCS. Under reorganization, each service chief would "delegate major portions of his service responsibilities to his vice chief."

The service chiefs then would make their JCS duties "their principal duties." The joint chiefs would serve as assistants to the Defense Secretary in running the joint commands, in effect strengthening their positions. The joint staff would be expanded and would include an operations division.

OTHER KEY provisions would:

- Give the Defense Secretary broad authority over military appropriations, i.e., transfer money from one service to another. Each service now controls its own money. Budgeting officers already are preparing FY 1960 budget figures on this new basis.
- Place information and legislative activities of the three services at the Pentagon under the Secretary of Defense. Also appoint a civilian assistant Defense secretary to handle all liaison with Congress. Both of these steps have been ordered into operation.
- Remove from each service one or two of the existing service assistant secretaries.
- Place information and legislative activities of the three services at the Pentagon under the Secretary of Defense. Also appoint a civilian assistant Defense secretary to handle all liaison with Congress. Both of these steps have been ordered into operation.
- The President said "overall efficiency of the Defense Department will be increased" and the trend toward "service controversy... will be sharply reduced" under the reorganization proposals.
- The President scored the "reorganization" of 1947, saying the structure then born "was little more than a weak confederation of sovereign military units. Few powers were vested in the new Secretary of Defense. All others were reserved to three separate executive departments (Air Force, Army and Navy)."

The following are citations of the United States Code Annotated pertaining to laws governing disclosure of classified information. Title 18 is the criminal section of the Code and investigations under its provisions are the responsibility of the Federal Bureau of Investigation, Department of Justice.

Title 18 U.S.C.A., Section 791-798:

These relate to espionage and censorship and the protection of defense information.

Section 791: Applies to the admiralty and maritime jurisdiction of the United States as well as on the high seas.

Section 792: Harboring or concealing any person known or suspected to have committed an offense under Section 793 or 794.

Section 793: Gathering, transmitting or losing defense information with intent or reason to believe it is to be used to the injury of the United States or for the benefit or use of a foreign nation. Also included are willful refusal to turn over national defense information on proper demand and loss of such information through gross negligence. Conspiracy or attempts re the foregoing are punishable. No distinction is made between war and peacetime espionage under this section.

Section 794: Gathering or delivering defense information for use of a foreign government. Death sentence is provided in time of war.

Section 795: Photographing and sketching defense installations determined by the President to require protection against general dissemination.

Section 796: Punishes use of aircraft for photographing defense installations.

Section 797: Punishes publication sale or gift of photographs of defense information.

Section 798: This section punishes the unauthorized communication or use in any manner prejudicial to the United States of any information concerning the foregoing which has been properly classified for reasons of national security.

These statutes pertain to any person and are not limited to Government employees.

Title 18 U.S.C.A., Section 2071 and Section 641:

Section 2071 of title 18 defines and punishes the concealment, removal, or mutilation of Government documents, papers, and records; and section 641 of title 18 punishes any individual who embezzles, steals, purloins, or knowingly converts any money, property, records, or anything of value belonging to the United States or any department or agency thereof. These are very broad; pertain to any person and are not limited to classified information.

Title 18 U.S.C.A., Section 1905:

This section is aimed at punishing the unauthorized disclosure by an officer or employee of the Government of information generally termed "confidential information".

and punishes anyone who "publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style or work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; . . ." This language is very broad and no official classification need be attached to the information in question. However, this does not exclude the fact that it could involve information relating to the national defense.

Title 18 U.S.C.A., Section 952:

This section provides punishment for the unauthorized disclosure or transmittal of any code or coded matter by anyone who by virtue of Government employment has custody of or access to the diplomatic code.

Title 50 U.S.C.A., Section 783(b):

This is part of the "Subversive Activities Act of 1950" and punishes the unauthorized disclosure of "classified information" by an officer or employee of the Government to any person whom such officer or employee has reason to believe is a member of a Communist organization or represents a foreign government. This statute deals directly with information affecting national defense which has been officially classified by the proper governmental agency for reasons of national security. The Federal Bureau of Investigation has investigative jurisdiction.

Title 42 U.S.C.A., Section 2271:

This section applies to any person and relates to the enforcement of security provisions with respect to the Atomic Energy Commission. It directs the Federal Bureau of Investigation to investigate all alleged or suspected criminal violations. However, the President is given the authority to utilize the services of any Government agency in protecting against unlawful dissemination of atomic data.

Title 5 U.S.C.A., Section 139b:

This is contained in the "Federal Reports Act of 1942" and provides that in the event any information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law (including penalties) relating to the unlawful disclosure of any such information shall apply to the officers and employees of both agencies.

Title 5 U.S.C.A., Section 311a:

This statute states that "notwithstanding any other provision of law, and without limiting the authority to investigate any matter which may have been or may hereafter be conferred upon them, or upon any other department or agency of the Government, the Attorney General and the Federal Bureau of Investigation shall have authority to investigate any violation of Title 18, involving Government officers and employees. . . ." Any information concerning said violations involving any employee shall be expeditiously reported to the Attorney General unless authority to investigate is specifically assigned by another provision of law or unless the Attorney General otherwise directs.

Executive Order No. 10501:

This relates to the safeguarding of official information in the interest of the defense of the United States. It provides for the categories of classification and assigns duties in question therewith to certain Government departments and agencies. It provides that nothing in the Order shall be construed to authorize the dissemination, handling, or transmittal of classified information contrary to the provisions of any statute.

Commission on Government Security, Honorable Lloyd Wright, Chairman:

It may be of interest to quote the following from page 620 of the Commission's report, dated 21 June 1957:

"The Commission recommends that Congress enact legislation making it a crime for any person willfully to disclose without proper authorization, for any purpose whatever, information classified 'secret' or 'top secret', knowing, or having reasonable grounds to believe, such information to have been so classified.

"The Commission believes that such a legislative enactment would act as a genuine deterrent to those who, without giving serious thought to the overall security picture but without pernicious or subversive intent, deliberately compromise vital defense information for the sake of publicity or for any commercial or other purpose."

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